

Assembly Constitutional Amendment

No. 5

Introduced by Assembly Member Richman

December 6, 2004

Assembly Constitutional Amendment No. 5— A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding Section 8 to Article XX thereof, relating to public pension or retirement benefits.

LEGISLATIVE COUNSEL'S DIGEST

ACA 5, as introduced, Richman. Public retirement systems.

The California Constitution reserves a role for the elected officials of this state in the governance of public pension systems through several means, including the power to determine the appropriateness of retirement benefits for public employees.

This measure would establish the California Public Employee Defined Contribution Plan. The measure would provide that on and after July 1, 2007, any person hired as a new employee by a public agency may enroll only in a defined contribution plan of a public pension or retirement system, and is prohibited from enrolling in a defined benefit plan, as defined. The measure would limit employer contributions to a defined contribution plan to an unspecified percentage of employer payroll, establish other parameters for defined contribution plans, and also set forth related findings of the Legislature.

The measure would permit an active member of a defined benefit plan, during a specified timeframe, to transfer a sum equal to the member's interest in the defined benefit plan to a defined contribution plan. The measure would also allow a local jurisdiction to exceed limits imposed by the measure upon a vote of 2/3 of the electorate.

The measure would authorize the Legislature to amend the provisions by a vote of 3/4 of the membership in each house by concurrent resolution in each of 2 consecutive sessions.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

1 WHEREAS, The California Constitution reserves a role for the
2 elected officials of this state in the governance of public pension
3 systems through several means, including the power to determine
4 the appropriateness of retirement benefits for public employees;
5 and

6 WHEREAS, It is the intent of this measure to prohibit, on and
7 after July 1, 2007, defined benefit plans for all public agencies
8 and to only authorize all new employees of public agencies to
9 enroll in a defined contribution plan; and

10 WHEREAS, It is the intent of this measure to establish the
11 California Public Employee Defined Contribution Plan, to
12 provide for fiscally responsible defined contribution plans; and

13 WHEREAS, The Constitution is amended from time to time in
14 furtherance of the wishes of the people and the people may set
15 new standards and provide for additional oversight and review of
16 public pension systems; now, therefore, be it

17 *Resolved by the Assembly, the Senate concurring*, That the
18 Legislature of the State of California at its 2005-06 Regular
19 Session commencing on the sixth day of December 2004,
20 two-thirds of the membership of each house concurring, hereby
21 proposes to the people of the State of California, that the
22 Constitution of the State be amended as follows:

23 That Section 8 is added to Article XX thereof, to read:

24 SEC. 8. (a) The California Public Employee Defined
25 Contribution Plan is hereby established.

26 (b) Notwithstanding any other provision, on and after July 1,
27 2007, any person hired as a new employee by a public agency
28 may enroll only in a defined contribution plan of a public pension
29 or retirement system, and shall not enroll in a defined benefit
30 plan.

31 (c) On and after July 1, 2007, and before January 1, 2008, any
32 active member of a defined benefit plan offered by any public
33 agency may transfer a sum equal to the set present value of that

1 member's interest in the defined benefit plan to a defined
2 contribution plan established in accordance with this section.

3 (d) On and after July 1, 2007, employer contributions to a
4 defined contribution plan established pursuant to this section
5 shall not exceed ____ percent of employer payroll, except that
6 employer contributions up to ____ percent of employer payroll
7 may be made for sworn police officers and full-time firefighters.

8 (e) As used in this section, the following terms apply:

9 (1) "Defined benefit plan" means a system providing a
10 pension benefit determined by a formula based on age, service
11 credit, and final salary.

12 (2) "Defined contribution plan" means a system providing a
13 pension benefit that is equal to the combined employer and
14 employee contributions plus interest, less administrative
15 expenses. A "public agency may use one or more third-party
16 administrators to manage a defined contribution plan and educate
17 members and retirees on appropriate investment strategies.

18 (3) "Public agency" includes, but is not limited to, the State of
19 California, and any city, city and county, or county, including a
20 charter city or charter county, district or other political
21 subdivision or public entity of, or organized under the laws of,
22 this State, or any department, instrumentality, or agency thereof.

23 (f) With respect to any local jurisdiction, the limits imposed by
24 subdivision (d) may be exceeded upon a vote of two-thirds of the
25 electorate of that jurisdiction.

26 (g) Notwithstanding any other provision to the contrary,
27 without approval by the people, the Legislature may, by a vote of
28 three-quarters of the membership in each house by concurrent
29 resolution enacted in each of two consecutive two-year sessions,
30 amend any part of this section relating to public pension or
31 retirement systems.